

Message Text

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ACTION EA-12

INFO OCT-01 ISO-00 OES-09 TRSE-00 XMB-02 ACDA-12
CIAE-00 INR-10 IO-13 L-03 NSAE-00 NSC-05 EB-08
NRC-05 SOE-02 DODE-00 SS-15 SP-02 CEQ-01 STR-07
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FM AMEMBASSY TOKYO
TO SECSTATE WASHDC 9479
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DOE GERMANTOWN MD

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DEPT PASS TO TREASURY

E.O. 11652: N/A
TAGS: EFIN, ENRG, ETRD, JA
SUBJECT: ADVANCED PAYMENT FOR URANIUM ENRICHMENT SERVICES

REF: STATE 167961

1. EMBASSY APPRECIATES RECEIVING DETAILED, INFORMATIVE REPORT OF ENRICHMENT NEGOTIATIONS (REFTEL).
 2. CONCERNING FURTHER INFO REQUESTED PARA 7 REFTTEL, WE DO NOT HAVE MUCH TO OFFER THAT IS NOT ALREADY KNOWN TO USG AGENCIES, BUT BASED ON OUR OWN CONVERSATIONS WITH GOJ AND INDUSTRY OFFICIALS INVOLVED, WE VENTURE FOLLOWING COMMENTS.
 3. IT APPEARS CERTAIN THAT JAPANESE UTILITIES WILL BORROW ENTIRE AMOUNT FOR TRANSACTION FROM JAPAN EXIM BANK, ALTHOUGH OTHER BORROWINGS ARE NOT EXCLUDED. EXIM IS WAITING TO SEE THE INTEREST RATE SET BY TREASURY FOR
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SPECIAL ACCOUNT BEFORE ANNOUNCING TO UTILITIES WHAT ITS LENDING RATE WILL BE. ACCORDING TO ONE MOFA OFFICIAL WHO WAS MEMBER OF DELEGATION TO WASHINGTON, TREASURY DID NOT OFFER INTEREST RATE IN RANGE OF 6.0 TO 6.5 PER CENT (REFTEL) BUT RATHER A FLAT 6.5 PER CENT. GOJ IS HOPING THAT THIS OFFER WILL BE INCREASED SLIGHTLY TO THE AVERAGE OF OTHER TREASURY BORROWINGS. IN ANY EVENT, EXIM'S

INTEREST RATE WOULD NOT BE LESS THAN, AND COULD BE HIGHER THAN, THE TREASURY RATE, ACCORDING TO THE MOFA OFFICIAL, AND THUS THERE WOULD BE NO POSSIBILITY OF UTILITIES MAKING A WINDFALL PROFIT. MOFA OFFICIAL STRESSED THAT HE WAS OFFERING PERSONAL VIEW AND NOT THAT OF GOJ. OUR OWN OPINION SUPPORTS THAT OF MOFA OFFICIAL. WE BELIEVE THAT INTEREST RATES CHARGED FOR SPECIAL IMPORT PROGRAM SET UP BY EXIM WOULD NOT BE APPLIED IN THIS CASE, WHERE BORROWED FUNDS ARE SIMPLY REDEPOSITED IN DRAWING ACCOUNT ABROAD AND DO NOT LEAD TO SHORT-TERM INCREASE IN IMPORTS.

4. CONCERNING DETAILS OF HOW JAPANESE PLAN TO ASSEMBLE TRANSACTION, WE HAVE TALKED TO ONE MAJOR UTILITY (WHICH SHOULD BE AUTHORITATIVE) AND LEARNED THAT UTILITIES ARE DOING NOTHING THEMSELVES TO MAKE ARRANGEMENTS. APPARENTLY, ENTIRE MATTER IS BEING LEFT TO GOJ. OUR UNDERSTANDING IS THAT ALTHOUGH CONSIDERATION IS BEING GIVEN TO HAVING EXISTING UTILITY INDUSTRY ASSOCIATION, SUCH AS FEDERATION OF ELECTRIC UTILITIES OR JAPAN ATOMIC INDUSTRIAL FORUM, HANDLE TRANSACTION AS A SINGLE ENTITY, IT WOULD STILL BE NECESSARY TO KEEP ACCOUNTS BY INDIVIDUAL UTILITY, SINCE EACH OF THE TEN UTILITIES INVOLVED HAS ITS OWN ENRICHMENT SERVICES CONTRACT WITH DOE AND EACH CONTRACT HAS DIFFERENT TERMS AND CONDITIONS. AS NOTED IN PARA 3 ABOVE, ALL FINANCING APPEARS TO BE LIMITED OFFICIAL USE

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COMING FROM EXIM.

5. INDEPENDENT CHECKS WITH A NUMBER OF GOJ OFFICIALS HAVE ELICITED UNIFORM RESPONSE THAT IT IS "LEGALLY IMPOSSIBLE" OR "IMPOSSIBLE" FOR GOJ TO BE PARTY TO MOU OR DIRECT GUARANTOR OF IT. WE DO NOT HAVE EXPERTISE IN JAPANESE LAW TO MAKE OUR OWN VERIFICATION OF THESE STATEMENTS, BUT WE ARE INCLINED TO BELIEVE THEM. JAPANESE TRY TO AVOID USE OF WORD "IMPOSSIBLE" AND IT IS RARELY HEARD. "DIFFICULT" IS USUALLY USED TO MEAN "IMPOSSIBLE" WHEN JAPANESE SEE INSURMOUNTABLE BARRIERS. GOJ IS STILL LEARNING TOWARD "SIDE LETTER" APPROACH, ALTHOUGH FINAL DECISION ON RESPONSE HAS NOT BEEN MADE. USG SHOULD NOT UNDERESTIMATE FORCE OF GOJ "GUIDANCE" TO INDUSTRY IN ENFORCING TERMS OF MOU. SINCE JAPANESE LAW IS WRITTEN IN VAGUE AND GENERAL TERMS, HEAVY RELIANCE IS PLACED ON MUTUAL RESPECT AND UNDERSTANDING OF RESPONSIBILITIES AS SHARED BETWEEN GOVERNMENT AND INDUSTRY.

6. OF COURSE ENTIRE ARGUMENT HINGES ON WHETHER TREASURY HAS LEGAL AUTHORITY TO SET UP "PRIVATE" ACCOUNT FOR JAPANESE UTILITIES. WE WOULD HOPE WASHINGTON WOULD BEAR

IN MIND POLITICAL IMPORTANCE PRIME MINISTER ATTACHES TO
CONCLUDING THIS ARRANGEMENT AS IT CARRIES OUT OVERALL
LEGAL/ADMIN/POLICY REVIEW. WOULD APPRECIATE LEARNING
OUTCOME OF REVIEW WHEN KNOWN. WE HAD BEEN UNDER
IMPRESSION THAT THIS HAD BEEN DONE PRIOR TO INVITING GOJ
DELEGATION TO WASHINGTON. MANSFIELD

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